

RULE CrRLJ 2.1
COMPLAINT--CITATION AND NOTICE

(a) Complaint.

(1) Initiation. Except as otherwise provided in this rule, all criminal proceedings shall be initiated by a complaint.

(2) Nature. The complaint shall be a plain, concise and definite written statement of the essential facts constituting the offense charged. It shall be signed by the prosecuting authority. Allegations made in one count may be incorporated by reference in another count. It may be alleged that the means by which the defendant committed the offense are unknown or that he or she committed it by one or more specified means. The complaint shall state for each count the official or customary citation of the statute, rule, regulation or other provision of law which the defendant is alleged therein to have violated. Error in the citation or its omission shall not be ground for dismissal of the complaint or for reversal of a conviction if the error or omission did not mislead the defendant to his or her prejudice.

(3) Contents. The complaint shall contain or have attached to it the following information when filed with the court:

(i) the name, address, date of birth, and sex of the defendant;

(ii) all known personal identification numbers for the defendant, including the Washington driver's operating license (DOL) number, the state criminal identification (SID) number, the state criminal process control number (PCN), the JUVIS control number, and the Washington Department of Corrections (DOC) number.

(b) Citation and Notice To Appear.

(1) Issuance. Whenever a person is arrested or could have been arrested pursuant to statute for a violation of law which is punishable as a misdemeanor or gross misdemeanor the arresting officer, or any other authorized peace officer, may serve upon the person a citation and notice to appear in court. Criminal citations shall be on a form entitled "Criminal Citation" prescribed by the Administrative Office of the Courts. Citation forms prescribed by the Administrative Office of the Courts are presumed valid.

(2) Release Factors. In determining whether to release the person or to hold him or her in custody, the peace officer shall consider the following factors:

(i) whether the person has identified himself or herself satisfactorily;

(ii) whether detention appears reasonably necessary to prevent imminent bodily harm to himself, herself, or another, or injury to property, or breach of the peace;

(iii) whether the person has ties to the community reasonably sufficient to assure his or her appearance or whether there is substantial likelihood that he or she will refuse to respond to the citation and notice; and

(iv) whether the person previously has failed to appear in response to a citation and notice issued pursuant to this rule or to other lawful process.

(3) Contents. The citation and notice to appear shall include or have attached to it:

(i) the name of the court and a space for the court's docket, case or file number;

(ii) the name, address, date of birth, and sex of the defendant; and all known personal identification numbers for the defendant, including the

Washington driver's operating license (DOL) number, the state criminal identification (SID) number, the state criminal process control number (PCN), the JUVIS control number, and the Washington Department of Corrections (DOC) number;

(iii) the date, time, place, numerical code section, description of the offense charged, the date on which the citation was issued, and the name of the citing officer;

(iv) the time and place the person is to appear in court, which may not exceed 20 days after the date of the citation and notice, but which need not be a time certain.

(4) Certificate. The citation and notice shall contain a form of certificate by the citing official that he or she certifies, under penalties of perjury, as provided by RCW 9A.72.085, and any law amendatory thereto, that he or she has probable cause to believe the person committed the offense charged contrary to law. The certificate need not be made before a magistrate or any other person.

(5) Initiation. When signed by the citing officer and filed with a court of competent jurisdiction, the citation and notice shall be deemed a lawful complaint for the purpose of initiating prosecution of the offense charged therein.

(c) Citizen Complaints. Any person wishing to institute a criminal action alleging a misdemeanor or gross misdemeanor shall appear before a judge empowered to commit persons charged with offenses against the State, other than a judge pro tem. The judge may require the appearance to be made on the record, and under oath. The judge may consider any allegations on the basis of an affidavit sworn to before the judge. The court may also grant an opportunity at said hearing for evidence to be given by the county prosecuting attorney or deputy, the potential defendant or attorney of record, law enforcement or other potential witnesses. The court may also require the presence of other potential witnesses.

In addition to probable cause, the court may consider:

(1) Whether an unsuccessful prosecution will subject the State to costs or damage claims under RCW 9A.16.110, or other civil proceedings;

(2) Whether the complainant has adequate recourse under laws governing small claims suits, anti-harassment petitions or other civil actions;

(3) Whether a criminal investigation is pending;

(4) Whether other criminal charges could be disrupted by allowing the citizen complaint to be filed;

(5) The availability of witnesses at trial;

(6) The criminal record of the complainant, potential defendant and potential witnesses, and whether any have been convicted of crimes of dishonesty as defined by ER 609; and

(7) Prosecution standards under RCW 9.94A.440.

If the judge is satisfied that probable cause exists, and factors (1) through (7) justify filing charges, and that the complaining witness is aware of the gravity of initiating a criminal complaint, of the necessity of a court appearance or appearances for himself or herself and witnesses, of the possible liability for false arrest and of the consequences of perjury, the judge may authorize the citizen to sign and file a complaint in the form prescribed in CrRLJ 2.1(a). The affidavit may be in substantially the following form:

THE STATE OF WASHINGTON)
) ss.

No. _____

COUNTY OF _____)

AFFIDAVIT OF COMPLAINING WITNESS

DEFENDANT:

Name _____
Address _____
Phone _____ Bus. _____

Name _____
Address _____
Phone _____ Bus. _____

WITNESSES:

Name _____
Address _____
Phone _____ Bus. _____

Name _____
Address _____
Phone _____ Bus. _____

Name _____
Address _____
Phone _____ Bus. _____

Name _____
Address _____
Phone _____ Bus. _____

I, the undersigned complainant, understand that I have the choice of complaining to a prosecuting authority rather than signing this affidavit. I elect to use this method to start criminal proceedings. I understand that the following are some but not all of the consequences of my signing a criminal complaint: (1) the defendant may be arrested and placed in custody; (2) the arrest if proved false may result in a lawsuit against me; (3) if I have sworn falsely I may be prosecuted for perjury; (4) this charge will be prosecuted even though I might later change my mind; (5) witnesses and complainant will be required to appear in court on the trial date regardless of inconvenience, school, job, etc.

Following is a true statement of the events that led to filing this charge. I (have) (have not) consulted with a prosecuting authority concerning this incident.

On the ____ day of _____, 19__, at _____.
(location)

Signed _____

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 19__.

Judge

(d) Filing.

(1) Original. The original of the complaint or citation and notice shall be filed with the clerk of the court.

(2) Time. The citation and notice shall be filed with the clerk of the court within two days after issuance, not including Saturdays, Sundays or holidays. A citation and notice not filed within the time limits of this rule may be dismissed without prejudice.

[Amended effective March 18, 1994; July 2, 1996; September 1, 1999; November 21, 2006; May 6, 2008.]
